

ACA Ethical Standards Casebook

• Seventh Edition •

Barbara Herlihy • Gerald Corey



AMERICAN COUNSELING
ASSOCIATION

WILEY

ACA Ethical Standards Casebook

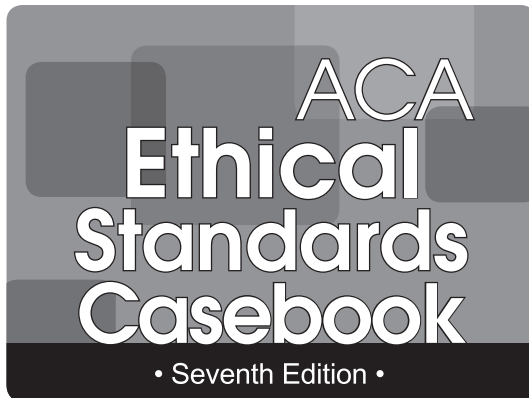
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*To our student readers—the next generation of
counseling professionals who will guide us
through uncharted waters.*



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We hope students and seasoned practitioners of counseling will find this *Casebook* to be a valuable resource. We believe the *Casebook* can be utilized effectively in an ethics course or in a practicum or internship experience to help future members of our profession learn about their ethical responsibilities and ways to address ethical dilemmas. The vignettes that illustrate the standards help to clarify their intent and provide examples of appropriate practice.

The 12 chapters in this book examine an array of ethical issues: client rights and informed consent; social justice and counseling across cultures; confidentiality; competence; managing value conflicts; counseling minor clients; managing boundaries; working with clients who may harm themselves; technology, social media, and online counseling; counselor education and supervision; research and publication; and the intersection of ethics and law.

Each of the 12 chapters is followed by two case studies that illustrate some of the issues examined in the chapter. Each case study presents an ethical dilemma and is followed by questions for thought and discussion, an analysis of the case, and additional questions for further reflection. Students have often told us that they had never thought about certain ethical questions until they were confronted with cases that raised difficult issues or posed dilemmas that could not be neatly resolved. This *Casebook* gives students an opportunity to examine many ethical issues before they confront them in practice. As you read each of the case studies, put yourself in the role of a consultant to the professional described in the case. If this person were to consult you regarding the case, what would you want to say? You can also assume the role of the counselor, student, supervisor, or professor in the case and reflect on how you might deal with the situation.

For experienced counselors, we hope the *Casebook* serves as a vehicle for continuing education and that you use the material to further your aspirational ethics. As you read, reflect, and discuss the material with your colleagues, ask yourselves: “How can I best monitor my own behavior?” “How can I apply relevant standards to situations I encounter?” “How can I develop increased ethical sensitivity?” “How can I ensure that I am thinking about what is best for my clients, my students, or my supervisees?”

We believe that ethics is best viewed from a developmental perspective. We may look at issues in one way as students; later, with time and experience, our views are likely to have evolved. Ethical reasoning takes on new meaning as we encounter a variety of ethical dilemmas. Professional maturity entails being willing to question ourselves, to discuss our doubts with colleagues, and to engage in continual self-monitoring.



Part I

Introduction



Introduction

*Perry C. Francis, Gerald Corey,
and Barbara Herlihy*

Counselors may rely on the *ACA Code of Ethics* to guide them in their work without having given much thought to why, when, and how the *Code* came into being. Students, as well, may learn the *Code* without realizing that it has a developmental history that spans more than 50 years. Take a moment to reflect on how you would answer these questions:

- Why does the counseling profession need a code of ethics? What purposes does it serve?
- Who created the *ACA Code of Ethics*?
- Why does the *Code* change periodically? How often is it revised? Who makes the revisions?
- How can an ethical dilemma best be resolved? What is the best process for ethical decision making?
- How is the *ACA Code of Ethics* enforced?

Answers to these questions are offered in this introductory section of the *Casebook* to provide a context for the more detailed examination of the *ACA Code of Ethics* that follows. We begin with a brief “history lesson” by Perry C. Francis (Chair, 2014 ACA Ethics Revision Taskforce), that illuminates how and when the counseling profession first recognized the need for a formal code of ethics, how it came into existence, and how it has evolved over time. This history will help you gain an appreciation for the extensive process that goes into creating and updating the *Code*.



Evolution of the ACA Ethical Standards and the Casebook

Perry C. Francis

The creation and continuing revision of a code of ethics are part of the natural development of any profession. A code of ethics is a living document that changes as the profession grows and changes. As the counseling profession has evolved from its early roots in the field of guidance, counselors have developed an increasingly sophisticated understanding of their interactions with clients and the boundaries of those interactions (Herr, 2011). This evolution is reflected in the successive iterations of our ethical standards, which have existed for more than 50 years.

In 1953, Donald Super, then president of the newly formed American Personnel and Guidance Association (APGA), recognized that a group of practitioners cannot fully develop into a profession without an established code of ethics (Francis & Dugger, 2014). Super appointed a committee to develop an ethics code for the emerging counseling profession. Eight years later (1961), the first *Code of Ethics* for the APGA was adopted by its governing body. Shortly after that, in 1963, the APGA Ethics Committee began to collect case examples and incidents that could illustrate the standards of care that were becoming the norm for the practice of the profession. The collected information formed the basis for the first edition of the *Ethical Standards Casebook*, which was published in 1965.

One constant in our world today is change, and the *ACA Code of Ethics* is no exception. As society has changed and the counseling profession has responded to those changes and redefined the boundaries of competent practice, the *Code of Ethics* has also evolved. Including the 1961 *Code*, the American Counseling Association (ACA) and its previous incarnations (APGA and the American Association for Counseling and Development [AACD]) has had seven different codes of ethics (published in 1961, 1974, 1981, 1988, 1995, 2005a, 2014). Each has reflected the changing nature of society, the growing body of knowledge about counseling, and the changing requirements within the profession. With each subsequent revision also came a revision of the *Casebook*.

The codes developed by the APGA and AACD from 1961 through 1988 were generic in nature and did not reflect the many specialties that had developed within the profession (such as school, group, and mental health counseling). By 1993, 7 of the 16 ACA divisions (ASCA, ARCA, ASGW, AMHCA, ACPA, ACES, and IAMFC) and two national certification boards (NBCC and CORE) had promulgated their own ethics codes (Herlihy & Remley, 1995), and this proliferation of codes caused confusion among professional counselors and state licensure boards. A new, broader code of ethics was needed that could address the diverse spe-

cialties within the field, incorporate the many concerns and standards of each specialty, and include new areas of ethical concern that were not included in the previous codes. The result was the *Code of Ethics and Standards of Practice* (ACA, 1995).

Over time, a pattern developed in which the *Code of Ethics* and *Casebook* were being revised about every 7 to 10 years. In 2002 the president of ACA (David Kaplan) appointed Michael M. Kocet as the chair of the 2005 Ethics Revision Taskforce. The taskforce invited ACA members as well as divisions, state licensure boards, and accrediting agencies to give input into the first draft and feedback after the release of this draft. Two town hall meetings also were held at the ACA conventions in 2004 and 2005 to give members the opportunity to directly address the entire Ethics Revision Taskforce and offer their input and feedback. In 2005, after approval of the Governing Council of the ACA, the new *Code of Ethics* was released. In contrast to the original (1961) *Code of Ethics*, which was five pages long and had no glossary, the 2005 *Code* was 24 pages long and had an 18-word glossary. The sixth edition of the *Casebook* was published the following year (Herlihy & Corey, 2006).

Six years following approval of the 2005 *ACA Code of Ethics*, Marcheta Evans, president of ACA, started the revision process that led to the current 2014 *Code*. A taskforce was appointed in 2011 and work was begun. As with the previous revisions, input was invited from the members of ACA, ACA divisions, state licensing boards, and national certification bodies. Numerous meetings and conference calls were held, along with town hall meetings at the ACA Conference & Expo in 2012 and 2013. At the same time, the editors of the sixth edition of the *Casebook* were contracted to produce the seventh edition to ensure that a relevant casebook would be available to illustrate the application of the newly adopted *Code*.

The 2014 ACA *Code of Ethics* Revision Process

Each revision of the *ACA Code of Ethics* is a reflection of the changing nature of our profession; the continued expansion of our profession's body of knowledge; the evolving expectations we have placed upon ourselves as we work with clients, students, and one another; and the changes in the world in which we live and work. As with any revision, work must begin with an examination of the previous document, in this case the 2005 *Code of Ethics*. I wish to acknowledge the fine work of our predecessors who provided the foundation of the 2014 taskforce's revision.

Building on the 2005 *Code*, the taskforce for the 2014 *Code* expanded the glossary; added a new section specifically addressing distance counseling, social media, and technology-related issues that previously were addressed only in Section A; and sought to address and clarify the many issues that have arisen since publication of the 2005 *Code*. In doing so we sought to provide our profession with an up-to-date document that will provide direction and guidance until the next revision.

The Charge to the Taskforce

The revision process began with the selection of the taskforce. Eleven professionals were chosen from a large pool of applicants. They included counselor educators, practitioners, and one student. Each had an extensive background in the field through service, publications and presentations, and/or practice. A balance was sought to ensure that the members' backgrounds represented the many subspecialties in our field (including mental health, rehabilitation, school, college, addictions). Members were Perry C. Francis (Chair), Jeannette Baca, Janelle Disney, Gary Goodnough, Mary Hermann, Shannon Hodges, Lynn Linde, Linda Shaw, Shawn Spurgeon, Richard Watts, and Michelle Wade (student). They were joined by ACA staff members David Kaplan (ACA Chief Professional Officer) and Erin Martz (ACA Ethics Director), who served as liaisons. Our task was not only to update the 2005 *Code of Ethics* but to address the ethical issues surrounding the changing nature of how we provide services through the use of technology. The continued expansion of technology required us to develop standards beyond those that were offered in the 2005 *Code*. We sought to clarify how professional counselors can ethically navigate the intersection of the values and moral principles of our profession, the personal values of the counselor, and the values of the client within the counseling session and beyond. Finally, we addressed issues that had been identified as needing additional clarification or revision since the previous revision (e.g., values-based referrals, managing boundaries, end-of-life care).

The Revision Process

The taskforce met monthly via conference calls and held additional face-to-face meetings at three ACA conferences and four other times in Alexandria, Virginia. In between the conference calls and face-to-face meetings, the members regularly communicated with one another via email and list-serv posts. Working groups were created to focus on each specific section of the *Code* to identify, discuss, and offer recommendations to the larger taskforce during its regularly scheduled meetings. In addition, a working group was assigned to create a new section of the *Code* dealing specifically with technology, social media, and distance counseling. Each working group was also assigned the task, where appropriate, of addressing the use of technology within each section of the *Code* to ensure that technology, social media, and distance counseling were infused throughout the *Code*. The entire taskforce reviewed, discussed, and debated each change, addition, and deletion suggested by the working groups as well as the work of the group as a whole until the final draft was created.

No revision is accomplished in a vacuum. The taskforce sought feedback and suggestions from multiple sources through multiple means. ACA members were invited to offer feedback and suggestions through

a dedicated page on the ACA website as the revision process began. The members were also invited, through the same process, to offer feedback on the first draft of the revision. As noted previously, the taskforce held two town hall meetings at each ACA conference (San Francisco, 2012, and Cincinnati, 2013) prior to the release of the final draft. Many members used each opportunity to offer (in some cases passionately) information, suggestions, criticism, and accolades about the direction the revisions were taking. This feedback was very influential in the creation of the new section, the revision of existing sections, and the overall direction of the revision process. Suggestions and feedback were also sought from each division of the ACA, state licensing boards, and ethical and legal scholars who had expertise in particular areas under review. Many members of the taskforce, as well as counselor educators across the country, used the revision process as a tool in their courses. This provided an excellent opportunity for students to examine in detail the first draft of the *Code*, and it provided the taskforce with students' perspectives on the revisions. These future professionals reminded the taskforce that the *Code* needs to be understandable not only to the seasoned professional but also to the new professional entering the field.

This process was not without its bumps and its smooth patches. Each member of the taskforce held strong opinions, had an in-depth knowledge of the practice of counseling as well as the ethical foundations of why we do the things we do, and was not afraid to voice her or his opinion. When we lacked information, we consulted with others who had the knowledge we needed and incorporated their suggestions into our work. At no time was a voice not heard and respected, an opposing opinion not deeply considered, or the views of the many different specialties of counseling not measured. In the end, strong friendships were made, old friendships were strengthened, and a new *Code* was drafted.

The 2014 *Code of Ethics* is not solely the work of 13 people. It is also the work of hundreds of others who offered their wise guidance, fervent opinions, researched suggestions, and years of experience in the field to create a *Code* that will guide the profession of counseling in the years ahead. At the same time, the next revision will be unofficially in the works even as we begin to use the 2014 *Code*. Our body of knowledge will grow, methods of service delivery will change, and the profession will continue to evolve. That evolution will require future revisions of the *Code of Ethics* and the *Casebook* as we continue to support the work of professional counselors.

Major Changes in the 2014 ACA Code of Ethics

From 1995 to 2014, the *ACA Code of Ethics* contained eight major sections, plus a Preamble; in 2014, a new section was added on distance counseling, technology, and social media. The specific standards included under each section are presented in detail in Part II of the *Casebook*. Here, I introduce

the major sections of the 2014 *Code*, briefly describe their contents, and highlight three of the major issues the new *Code* addresses.

Preamble and Purpose

Describes the six main purposes of the *Code*, discusses ethical decision making, and articulates the professional values of the counseling profession.

Section A: The Counseling Relationship

Addresses ethical practice in initiating, conducting, and ending the counseling relationship. Includes standards related to client welfare, informed consent, clients served by others, avoiding harm and imposing values, relationship boundaries, advocacy, working with multiple clients and groups, fees and business practices, and termination and referral.

Section B: Confidentiality and Privacy

Presents standards related to protecting the client's privacy and maintaining confidentiality. Includes exceptions to confidentiality, working with groups and families and clients who lack the capacity to give informed consent, record keeping and documentation, and consultation.

Section C: Professional Responsibility

Includes ethical obligations related to competence, accurate representation of qualifications, nondiscrimination, responsibilities to the public and other professionals, and treatment modalities.

Section D: Relationships With Other Professionals

Offers guidelines for relationships with colleagues, employers, and employees and for providing consultation services.

Section E: Evaluation, Assessment, and Interpretation

Provides standards for the use and interpretation of assessment instruments; informed consent in assessment; release of data; diagnosis; selecting, administering, scoring, interpreting, constructing, and securing assessment instruments; attending to multicultural issues in assessment; and forensic evaluation.

Section F: Supervision, Training, and Teaching

Presents standards related to counselor supervision; responsibilities of supervisees, students, and counselor educators; student welfare, evaluation, and remediation; roles and relationships; and multicultural competence.

Section G: Research and Publication

Offers guidance on rights and responsibilities of researchers and participants; managing boundaries; reporting results; and publications and presentations.

Section H: Distance Counseling, Technology, and Social Media

This new section covers informed consent, privacy, and security of electronic communications; distance counseling; web and records maintenance; and social media.

Section I: Resolving Ethical Issues

Describes the relationship of ethical standards and the law, dealing with suspected violations, and cooperation with the ethics committee.

There are numerous differences between the 2005 and 2014 *ACA Code of Ethics*. For those of you familiar with the 2005 *Code*, I offer a brief description of major changes in three selected areas: distance counseling, technology, and social media; professional versus personal values; and the counseling relationship (boundaries).

Distance Counseling, Technology, and Social Media

In the early 1990s, the counseling profession was just beginning to address the advent of email, chat rooms, and websites in the delivery of services. Social media (such as Facebook and Twitter) and related applications are now ubiquitous in our world and are often used by counselors to provide a professional presence on the Internet. Counselors use virtual reality environments, among other electronic platforms and programs, to provide counseling services to clients within their state, across state lines, and, in some cases, in other countries. This advancement in computer technology has gone beyond what could have been anticipated just a few years ago.

The 2005 *Code* addressed the use of technology applications within the “Counseling Relationship” section. That subsection now has its own section and has been updated and expanded to reflect current issues when using electronic means to provide services, store records, advertise services, and communicate with clients. The 2014 taskforce made the decision not only to create a separate section for distance counseling, technology, and social media but also to infuse it into several other sections. Although technology is not a new issue for the counseling profession, the speed at which technology is changing our world and the way we provide counseling services will challenge the application of the 2014 *Code* in the years ahead.

Values

One cannot study ethics without understanding the role of professional and personal values in the art and science of counseling. To begin to understand values, I offer two definitions:

- “Value (noun): A moral, social, or aesthetic principle accepted by an individual or society as a guide to what is good, desirable, or important” (American Psychological Association, 2007, p. 975).
- Values: “principles, or criteria, for selecting what is good (or better, or best) among objects, actions, ways of life, and social and political institutions and structures. Values operate at the levels of individuals, or institutions and entire societies” (Schwartz, 1990, p. 8, as quoted in Kelly, 1995, p. 648).

As part of the revision process, the taskforce sought to revise the professional values statement in the Preamble of the 2005 *Code*, which stated, “Professional values are an important way of living out an ethical commitment. Values inform principles. Inherently held values that guide our behaviors or exceed prescribed behaviors are deeply ingrained in the counselor and developed out of personal dedication, rather than the mandatory requirement of an external organization” (p. 3). This statement pointed to the professional values of counseling but did not define them. One purpose in revising the preamble to identify the basic values of the counseling profession and provide the definition of counseling (as presented by the 20/20 Future of Counseling Taskforce) was to help those seeking to enter the profession to develop a “professional ethical identity” (Handelsman, Gottlieb, & Knapp, 2005, p. 59). This development is part of acculturating our students to the expectations of the profession. Handelsman and colleagues (2005) point out that this acculturation does not stop with ethics. It includes all that we do (education, practice, supervision) as we prepare to enter practice and continue on as professionals.

The taskforce sought to provide more direction and clarification in the Preamble and elsewhere in the *Code* because questions had arisen during court challenges to the *Code of Ethics* (e.g., *Ward v. Wilbanks*, 2010; *Keeton v. Anderson-Wiley*, 2010). By identifying the basic values of counseling, the taskforce sought to strengthen the foundation for other sections of the *Code* that deal with referrals, competence, discrimination, and the prohibition of the imposition of personal values on our clients. A new standard (ACA, 2014, Standard A.11.b.) specifically instructs counselors to refrain from making referrals based solely on a personal values conflict the counselor may have with the client’s values, behavior, or lifestyle. This issue is specifically connected in the *Code* to our nondiscrimination stance as a professional association as well as to issues of competency and respect for diversity.

The Counseling Relationship

The 2005 *Code of Ethics* acknowledged and contributed to the paradigm shift that was taking place with respect to how we conceptualize our relationships with our clients and students. We were now required to carefully think through, for example, how the simple act of attending a client’s life ceremony (such as a graduation or wedding) could be beneficial or harmful to the therapeutic process. No longer do we have the luxury of simply saying that all dual relationships are forbidden; we are now challenged to work with clients to examine the ramifications of those complex connections. The 2014 revision sought to provide clarification about those difficult connections. To whom, for example, can a counselor provide services within a client’s extended family? What must a counselor educator consider before initiating a nonacademic relationship with a former student? The taskforce had long and fruitful discussion as they worked through these and other issues.